

Application Serial No. 09/806,573  
Amendment dated July 7, 2003  
Reply to Office Action dated February 19, 2003

### **REMARKS/ARGUMENTS**

Claims 147-198, 200, 202-210, 214-270, 272, 274-282, 285-288, and 290-297 are pending. Claims 175, 176, 247, and 248 have been withdrawn from consideration. Claims 199, 201, 211-213, 271, 273, 283, 284 and 289 have been cancelled. Claims 295-297 have been added. No claims have been allowed.

#### **Election requirement**

Responsive to the Examiner's finalization of the Election Requirement, Applicants respectfully submit that independent Claims 147 and 220, from which Claims 175, 176 and 247, 248 depend, respectively are in condition for allowance and are generic. Therefore, Applicants request that Claims 175, 176 and 247, 248 be considered in the present application.

#### **Abstract**

Responsive to the Examiner's indication that the present application does not include an Abstract, Applicants have submitted an Abstract herewith. The Abstract is that of PCT Patent Application WO 00/20692, from which the present application claims priority. Thus, Applicants respectfully submit that no new matter has been added.

#### **Drawing objections**

Responsive to the Examiner's objections to the drawings, Applicants have cancelled the claims or the applicable portions of the claims which the Examiner asserts are not shown in the drawings. Specifically, the phrase "or a selection of each" has been deleted from Claim 191. Claims 199, 211, 212, and 213 have been canceled. Reference to a plurality of padlocks has been deleted from Claim 217. Claims 271, 283, 284, and 289 have been canceled. Applicants respectfully submit that the foregoing is completely responsive to the Examiner's objections regarding the drawings.

#### **Rejections under 35 U.S.C. §112, second paragraph**

Regarding the Examiner's rejection of Claims 147-174, 177-246, and 249-294 under 35 U.S.C. §112, second paragraph, Applicants have amended the claims as follows to overcome the Examiner's rejections of same. In particular:

In Claim 147, Applicants have deleted the phrase "the other" and have substituted the phrase an opposite therefor to provide antecedent basis.

In Claim 148, Applicants have amended same to recite "one of a cable, chain, rope, cord, rod and pipe".

In Claim 153, Applicants have deleted the phrases "or synthetic" and "or strap".

In Claim 158, Applicants have amended same to recite "one of a thimble assembly, hook assembly, eye assembly, T-bar assembly and clevises assembly".

In Claim 160, Applicants have provided antecedent basis for "the first line".

In Claim 172, Applicants respectfully request the Examiner to note that same depends from Claim 168, which in turn depends from Claim 166. Claim 166 has been amended to depend from Claim 162, which provides antecedent basis for "said pulley means" and "said first and second spring".

In Claim 180, Applicants have amended same to recite "an unlock direction" to provide antecedent basis.

In Claim 191, Applicants have deleted the phrase "or a selection of each".

Regarding Claim 192, Applicants have amended same to recite "wherein said at least one elongate member is connected to a bar, said bar pivotally attached to said second support means". Referring to Fig 1 of the present application, it may be seen that the elongate member (cable 1) is connected to bar 10, which is pivotally attached to second post 2.

In Claim 193, Applicants have deleted the phrases "first and/or".

In Claim 198, Applicants have amended same to recite "one of said spring loaded arm and said second pulley".

Claim 201 has been canceled.

In Claim 208, Applicants have deleted the phrase "mains power or".

In Claim 210, Applicants have deleted reference to "said third line".

In Claim 220, Applicants have deleted the phrase "the other" and have substituted the phrase an opposite therefor to provide antecedent basis, and have also deleted the phrases "or second" throughout.

In Claim 222, Applicants have deleted "or".

In Claim 223, Applicants have amended same to recite "one of a thimble assembly, hook assembly, eye assembly, T-bar assembly and clevises assembly".

In Claim 244, Applicants respectfully request the Examiner to note that same depends from Claim 240, which in turn depends from Claim 238. Claim 238 has been amended to depend

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from Claim 234, in which antecedent basis is provided for "said pulley means" and "said first and second springs".

In Claim 252, Applicants have amended same to recite "an unlock direction" to provide antecedent basis.

In Claim 263, Applicants have deleted the phrase "or a selection of each".

With respect to Claim 264, Applicants have amended same to recite "wherein said at least one elongate member is connected to a bar, said bar pivotally attached to said second support means". Referring to Fig 1 of the present application, it may be seen that the elongate member (cable 1) is connected to bar 10, which is pivotally attached to second post 2.

In Claim 265, Applicants have deleted the phrase "first and/or".

In Claim 270, Applicants have amended same to recite "one of said spring loaded arm and said second pulley".

Claim 273 has been cancelled.

In Claim 276, Applicants have deleted "or", and made corresponding amendments in lines 4 and 5.

In Claim 278, Applicants have amended same to recite "one of said first and said second support means".

In Claim 280, Applicants have deleted the phrase "mains power or".

In Claim 282, Applicants have deleted reference to "said third line".

Claim 284 has been cancelled.

In Claim 291, Applicants have deleted "the other" and substituted an opposite therefor to provide antecedent basis.

In Claim 292, Applicants have deleted "the other" and substituted an opposite therefor to provide antecedent basis, and have deleted the phrases "or second" throughout.

In Claim 293, Applicants have deleted "the other" and substituted an opposite therefor to provide antecedent basis, and have deleted the phrases "or second" throughout. The term "derive" has been deleted and drive substituted therefor.

In Claim 294, Applicants have deleted the phrase "the other" and have substituted the phrase an opposite therefor to provide antecedent basis.

Responsive to the Examiner's statement that consistency is not maintained between the first and second support means in the claims (*see* the Office Action at pages 3-4 and 5 with

respect to Claims 192 and 264), Applicants have additionally made amendments to Claims 149, 150, 204, 206, 217, 220, 221, 224, 226, 246, 276, and 292 which are consistent with those made above to other claims, as well as to eliminate any potential inconsistency between the first and second support means.

**Rejections under 35 U.S.C. §§ 102(b) and 103(a)**

The Examiner rejected Claims 147-153, 156, 166, 167, 180-185, 187-193, 199-201, 206-208, 211, 213-215, 218-226, 229, 232, 238, 239, 252-257, 259-265, 271-273, 278-280, 283, 285-287 and 290 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,245,787 to Swenson et al. (hereinafter Swenson et al. '787). The Examiner rejected Claims 154, 155, 202, 203, 216, 227, 228, 237, 274, 275, and 288 under 35 U.S.C. §103(a) as being unpatentable over Swenson et al. '787.

Swenson et al. '787 discloses cable gate 10, shown in Fig. 1, including spaced first and second housings 11 and 12. Referring additionally to Fig. 3, cable 17 includes first end 17a attached to anchor 18 of housing 11 and a second end 17b attached to housing 12. Referring to Figs. 2 and 3, cable 17 is routed through opening 19 in housing 11 around pulley 20, around pulley 21 adjacent the bottom of housing 11, and around pulley 22 which is mounted to slide member 23. Slide member 23 is mounted to track 24, and may be reciprocatingly driven therealong by motor 26 via drive chain 25 between an uppermost position shown in Fig. 3 and a lowermost position shown in Fig. 2. Specifically, referring to Fig. 2, a greater portion of cable 17 is disposed externally of housing 11, and same is lowered by gravity to a position wherein vehicles may pass through the opening between housings 11 and 12. Referring to Fig. 3, it may be seen that when slide member 23 and pulley 22 are driven upwardly along track 24, same increases the amount of cable 17 which is disposed within housing 11, thereby raising cable 17 to a position wherein same blocks the opening between housings 11 and 12.

Independent Claim 147 calls for a gate, including, *inter alia*, first and second support means located on opposite sides of an opening; at least one elongate member extendable across the opening; a first drive means to draw in the elongate member; and a control means for coupling and decoupling the first drive means, wherein the coupling of the first drive means allows for release of the at least one elongate member, and coupling of the first drive means allows for drawing in the at least one elongate member.

Applicants respectfully submit that independent Claim 147 is not anticipated by, or obvious in view of, Swenson et al. '787, because Swenson et al. '787 fails to disclose each and every element of independent Claim 147. Specifically, Swenson et al. '787 fails to disclose a gate having a drive means, and a control means for coupling and decoupling the drive means, wherein decoupling of the drive means allows release of an elongate member and coupling of the drive means allows for drawing in the elongate member. For example, in Figs. 3a, 3b, 5a-c, 7a-c, 10a, and 10b of the present patent application, control means (clutches) are disclosed for coupling and decoupling the drive means (winch drum 25 and motor drive 8). This arrangement advantageously provides for the coupling of winch drum 25 to motor 8 to draw in the elongate member (cable 1) to raise the elongate member and close the gate, and decoupling of winch drum 25 from motor 8 such that cable 1 may fall rapidly to the ground by gravity to open the gate.

This type of arrangement is not taught, disclosed or suggested by Swenson et al. '787. By contrast, Swenson et al. '787 discloses a mechanism in which a motor 26 is attached to slide member 23 via a drive chain 25. One of ordinary skill in the art, without knowledge of Applicants' invention, would readily appreciate from Swenson et al. '787 that when motor 26 rotates in a first direction, drive chain 25 is pulled upwardly to raise slide member 23 and pulley 22 upon track 24, thereby drawing cable 17 within housing 11 and raising cable 17 to close the gate. When motor 26 rotates in an opposite, second direction, drive chain 25 is lowered to in turn lower slide member 23 and pulley 22 upon track 24, thereby allowing cable 17 to pay outwardly from housing 11 to open the gate. Thus, motor 26 is always coupled to slide member 23 and to pulley 22 via drive chain 25, and Swenson et al. '787 does not disclose, teach, or suggest any type of control means for coupling and decoupling motor 26 from slide member 23 and pulley 22.

Thus, Applicants respectfully submit that independent Claim 147 is not anticipated by, or obvious in view of, Swenson et al. '787. Further, because Claims 148-174, 177-198, 200, 202-210, and 214-218 each depend from independent Claim 147, Applicants further submit that Claims 148-174, 177-198, 200, 202-210, and 214-218 also cannot be anticipated by, or obvious in view of, Swenson et al. '787.

Independent Claim 219 calls for a drive mechanism including a first and a second spring each fixed at one end; a belt passing around a pulley means and connecting the first spring to the second spring; a drive means to rotate the pulley means; and a line attached from the belt to a device which the drive mechanism is adapted to operate.

Applicants respectfully submit that independent Claim 219 is not anticipated by, or obvious in view of, Swenson et al. '787, because Swenson et al. '787 fails to disclose each and every element of independent Claim 219. With reference to Figs. 3a, 3b, 10a, and 10b of the present patent application, a drive mechanism is shown including a first and a second spring 32, 33 each fixed at one end; a belt 30 passing around a pulley means 31 or 70 and connecting the first spring 32 to the second spring 33; a drive means (motor drive 8, Fig. 1) to rotate the pulley means 31 or 70; and a line 24 attached from the belt to a device which the drive mechanism is adapted to operate. The foregoing mechanism is not disclosed, taught, or suggested by Swenson et al. '787, therefore, Applicants respectfully submit that independent Claim 219 cannot be anticipated by, or obvious in view of, Swenson et al. '787.

Independent Claim 220 calls for a gate, including, *inter alia*, first and second support means located on opposite sides of an opening; at least one elongate member having a first and a second end and extendable across the opening, wherein the first end is joined to a termination means adapted to engage a locking means located in the first support means; and a control means for releasing the at least one elongate member and drawing the elongate member toward a first aperture in the first support means; wherein the elongate member remains substantially external to the first or second support means and little to none of the elongate member enters the first support means when the gate is in a locked or closed position.

Applicants respectfully submit that independent Claim 220 is not anticipated by, or obvious in view of, Swenson et al. '787, because Swenson et al. '787 fails to disclose each and every element of independent Claim 220.

Specifically, Swenson et al. '787 fails to disclose an elongate member having a first end joined to a termination means adapted to engage a locking means located in a first support means, wherein the elongate member remains substantially external to the first support means and little to none of the elongate member enters the first support means when the gate is in a locked or closed position. Referring to the present patent application, an elongate member (cable 1) includes a first end joined to a termination means (pull-in cable 6) adapted to engage a locking means (latch 20, *see* Figs. 2a, 2b) in a first support means (post 3), wherein the elongate member remains substantially external to the first support means and little to none of the elongate member enters the first support means when the gate is in a locked or closed position (*see* Fig. 2b).

Advantageously, the foregoing provides the combination of a cable and pull-in cable, wherein the cable and pull-in cable are locked when the gate is in a closed position with little to none of the cable entering the first support. In this manner, the locking means bears the weight of the raised cable such that same is not imposed on the drive mechanism or other moving parts of the gate.

The foregoing is not disclosed, taught, or suggested by Swenson et al. '787. By contrast, Swenson et al. '787 discloses a gate having a single cable 17 with a first end 17a attached to an anchor 18 in housing 11 and a second end 17b attached to housing 12. Thus, cable 17 lacks a pull-in cable or termination means as claimed in independent Claim 220. Further, Swenson et al. '787 fails to disclose any type of locking arrangement for locking cable 17 when the gate is in a closed position. Rather, when the Swenson et al. '787 gate is in a closed position as shown in Fig. 3, one of ordinary skill in the art would appreciate that the weight of cable 17 is imposed upon drive chain 17 and motor 26, which could lead to fatigue or failure of drive chain 17 and motor 26.

Thus, Applicants respectfully submit that independent Claim 220 is not anticipated by, or obvious in view of, Swenson et al. '787. Further, because Claims 221-246, 249-270, 272, 274-282, 285-288, and 290 each depend from independent Claim 220, Applicant's further submit that Claims 221-246, 249-270, 272, 274-282, 285-288, and 290 also cannot be anticipated by, or obvious in view of, Swenson et al. '787.

#### **Allowable claims**

Applicants thank the Examiner for his indication that Claims 291-294 would be allowable if rewritten or amended to overcome the rejections thereof under 35 U.S.C. §112, second paragraph. Applicants believe that Claims 291-294 were inadvertently referred to by the Examiner as Claims 191-194 on page 7 of the February 19, 2003 Office Action. As indicated above, Applicants have amended Claims 291-294 to overcome the rejections thereof under 35 U.S.C. §112, second paragraph, and respectfully request allowance of same.

#### **Conclusion**

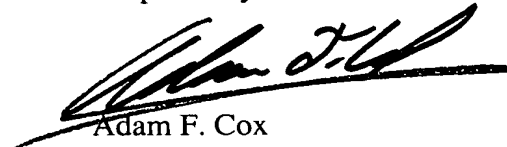
It is believed that the above represents a complete response to the Official Action and reconsideration is requested. Specifically, Applicants respectfully submit that the application is in condition for allowance and respectfully request allowance thereof.

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In the event Applicants have overlooked the need for an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefore and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

Should the Examiner have any further questions regarding any of the foregoing, he is respectfully invited to telephone the undersigned at (260) 424-8000.

Respectfully submitted,

  
Adam F. Cox  
Registration No. 46,644

Attorney for Applicants

AFC/mt

BAKER & DANIELS  
111 East Wayne Street, Suite 800  
Fort Wayne, IN 46802  
Telephone: 260-424-8000  
Facsimile: 260-460-1700

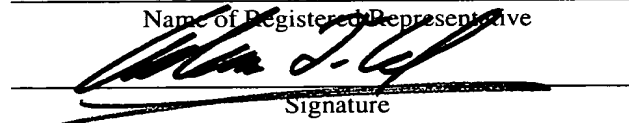
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Date